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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,722

09/08/2003

Chris Chudek

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06/29/2004

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EXAMINER

COHEN, AMY R

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,722

Applicant(s)

CHUDEK ET AL.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Drawings***

1. The drawings are objected to because the label 115" is not clear on Fig. 9 and Fig. 13 appears to have "Fig. 10" in the drawing near reference number 215. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 235. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as

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not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7-11, 13-15, 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jamison et al. (U. S. Patent No. 2,537,058).

Jamison teaches a compass assembly (Fig. 1) comprising: a first member (2, 5, 7); a second member (9, 10) pivotally connected to said first member at a common end (8), wherein said first member has an anchor point (3) opposite said common end and said second member retains a marking device (12) opposite said common end; and a compressible cover (16) being connected to said first member and positioned over said anchor point (Col 2, line 29-Col 3, line 27).

Jamison teaches the compass assembly, further comprising a gripping member (14) positioned at said common end point (Fig. 1).

Jamison teaches the gripping member, wherein said gripping member has a textured or perforated surface (Fig. 1).

Jamison teaches the compass assembly, wherein said compressible cover is elastomeric (Col 2, line 29-Col 3, line 27).

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Jamison teaches the compass assembly, wherein said compressible cover is tubular (25, 26 Col 4, lines 24-54).

Jamison teaches the compass assembly wherein said compressible cover has slits (21, 27-29, Figs. 3, 7, and 8).

Jamison teaches the compass assembly, wherein said compressible cover has a first end (17) connected to said first member and extending a second end (22, 26, 33) opposite said first end and beyond said anchor point in a neutral state (Col 3, line 28-Col 4, line 54).

Jamison teaches the compass assembly wherein said compressible cover compresses to expose said anchoring point when downward pressure is applied (Col 2, line 29-Col 3, line 27).

Jamison teaches a compass assembly (Fig. 1) comprising: a first member (2, 5, 7); a second member (9, 10) being pivotally connected (8) to said first member; a gripping member (14) being connected to said first member and said second member; and a compressible cover (16) being positioned on said first member and around a pointed end (3) of said first member (Col 2, line 29-Col 3, line 27).

Jamison teaches the compass assembly, wherein said first member connects with said second member at a common end point (8) to make a movable joint (Col 2, line 29-Col 3, line 27).

Jamison teaches the compass assembly wherein said compressible cover is a hollow tube (Figs. 1-9).

Jamison teaches the compass assembly wherein said compressible cover has vertical slits (27-29, Figs. 7-9).

Jamison teaches a method of using a compass assembly comprising: pivoting a first member relative to a second member, wherein said second member has a marking device

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connected thereon (Col 3, lines 28-45); grasping a gripping member connected to said first member and said second member; applying downward pressure on a compressible member connected to said first member and covering a pointed end of said first member so that said pointed end protrudes from said compressible member, thereby anchoring said compass assembly to a surface (Col 2, line 29=Col 3, line 27); rotating said compass assembly so that the marking device describes an arc on the surface (Col 1, lines 6-19); and lifting said compass assembly from the surface so that said compressible member extends to a neutral position wherein said pointed end is covered (Col 2, line 29-Col 3, line 27).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jamison et al. in view of Hanle (U. S. Patent No. 2,045,298).

Jamison et al. discloses the compass assembly as described above in paragraph 4.

Jamison et al. does not disclose a compass assembly wherein said first member and said second member are connected by a gear mechanism.

Hanle discloses a compass assembly (Fig. 1) wherein said first member (11) and said second member (10) are connected by a gear mechanism (23, 24, 25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the compass assembly of Jamison to include a gear mechanism between the

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first and second members, as taught by Hanle, so that the first and second members could be spaced apart from each other in a measurable and selectable manner more easily (Hanle, Col 1, lines 1-12 and 39-53).

7. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jamison et al. in view of Himbert et al. (U. S. Patent No. 6,238,371).

Jamison et al. discloses the compass assembly as described above in paragraph 4.

Jamison et al. does not disclose a compass assembly wherein said compressible cover is a bellows; wherein said compressible cover is pleated.

Himbert et al. discloses a point covering assembly (Figs. 1-7) wherein said compressible cover is a bellows (Figs. 1, 2, 6, 7 and Col 3, lines 7-16); wherein said compressible cover is pleated (Figs. 1, 2, 6, 7 and Col 3, lines 7-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the compressible cover of Jamison et al. to be of bellows or pleats, as taught by Himbert et al., since bellows and pleats are two common forms of compressible covers and in order to have a more compact compressible cover.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose compass assemblies or covers Smith (U. S. Patent No. 6,311,404), Mittersinker et al. (U. S. Patent No. 6,146,038), Klodt (U. S. Patent No. 5,056,945), Schwartz (U. S. Patent No. 4,775,369), Heyden (U. S. Patent No. 4,595,307), Stein et al. (U. S. Patent No. 3,394,460), Stein et al. (U. S. Patent No. 3,197,871), McGuigan (U. S. Patent No. 1,291,972), and Huber (U. S. Patent No. 779,082).

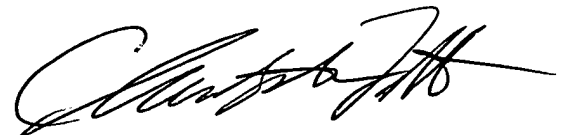
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC
June 25, 2004



Christopher Fulton
Primary Examiner
Tech Center 2800